

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 4387 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

IRMA E. CONNELLY
S.S.A. No.

PRECEDENT
BENEFIT DECISION
No. P-B-309

FORMERLY
BENEFIT DECISION
No. 4387

The above-named claimant on December 27, 1946, appealed from the decision of a Referee (R-17796-46987-46) which held that she was not available for work as required by Section 57(c) of the Unemployment Insurance Act [now section 1253(c) of the Unemployment Insurance Code].

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

The claimant was last employed for a period of four months as a salesclerk for a stationery store in Stockton, at a wage of \$125 per month. She voluntarily left this work in July, 1946, to move to Coloma, where her husband obtained work on a large ranch. Prior to this, the claimant had worked a total of fourteen months as a salesclerk for other employers.

On July 9, 1946, the claimant registered for work and filed a claim for benefits in the Stockton office of the Department of Employment. Later she transferred the claim to the Placerville office of the Department. On October 2, 1946, the Department issued a determination which disqualified the claimant from benefits for five weeks beginning September 20, 1946, on the ground that

she had refused suitable employment without good cause within the meaning of Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the code]. This determination further held the claimant ineligible for benefits indefinitely commencing September 20, 1946, on the ground that she was not available for work as required by Section 57(c) of the Act [now section 1253(c) of the code]. The claimant appealed, and a Referee held that the claimant was not available for work indefinitely commencing September 20, 1946. The Referee further held that inasmuch as the claimant was not available for work on September 20, 1946, when she was offered work as a salesclerk the disqualification provided by Section 58(a)(4) of the Act [now section 1257(b) of the code] for refusing suitable employment without good cause did not apply.

The claimant resides in Coloma, eight miles from Placerville, and has an automobile which she is willing to use for travel to Placerville. As far as the record discloses, she registered for work without unreasonable limitations or restrictions on acceptable employment. On September 20, 1946, the claimant accepted a referral by the Employment Service to work as a salesclerk for a drug store at the prevailing rate of pay of sixty-five cents per hour in addition to commissions. She contacted the store and during her conversation with the employer stated that she could not sell. The claimant was not employed for this reason. At the hearing the claimant testified that she had believed the work required aggressive salesmanship at a cosmetic counter and because she was inexperienced at such work she did not want to misrepresent herself to the employer. A representative of the Department stated that although the employer was interested in hiring a salesclerk with experience in cosmetics, two or three general salesclerks were needed at the time, and specialized training in cosmetics was not required.

REASON FOR DECISION

We are of the opinion that the evidence in this case does not justify the conclusion of the Referee that the claimant was not available for work within the meaning of Section 57(c) of the Act [now section 1253(c) of the code]. Although the claimant moved from a metropolitan area to a rural area, so far as the record indicates she registered for work without restrictions or limitations and there was a labor

market for her services as evidenced by her referral to employment within her training. Therefore, the claimant met the availability requirements of Section 57(c) of the Act [now section 1253(c) of the code] during the period involved in this appeal.

In many prior decisions we have held that a disinterested attitude on the part of a claimant interviewing a prospective employer is tantamount to a refusal of the work. In the instant case the work offered to the claimant was in her usual occupation as a salesclerk, and paid the prevailing wage rate in the locality. The claimant assumed that she was unable to perform the work, without giving it a trial, and her negative attitude prevented her from obtaining the position. Therefore, in conformity with our prior decisions we hold that she is subject to disqualification for refusing an offer of suitable employment without good cause.

DECISION

The decision of the Referee is modified. The claimant is held available for work. The claimant is held to have refused an offer of suitable employment without good cause and is disqualified from benefits for the week in which September 20, 1946, occurred and for the four weeks which immediately follow such week. Thereafter benefits are allowed provided the claimant is otherwise eligible.

Sacramento, California, June 19, 1947.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

TOLAND C. McGETTIGAN, Chairman

MICHAEL B. KUNZ

HIRAM W. JOHNSON, 3rd

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 4387 is hereby designated as Precedent Decision No. P-B-309.

Sacramento, California, May 4, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT